

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

11 BRADLEY ALLEN WOLFE,

No. C 12-1340 YGR (PR)

12 Plaintiff,

**ORDER DISMISSING COMPLAINT
WITH LEAVE TO AMEND**

13 v.

14 SONOMA COUNTY SHERIFF'S
15 DEPARTMENT, et al.,

16 Defendants.

17 /
18 **INTRODUCTION**

19 This is a federal civil rights action filed pursuant to 42 U.S.C. § 1983 by a *pro se* state
20 prisoner. The Court now reviews the complaint pursuant to 28 U.S.C. § 1915A(a).

21 **DISCUSSION**

22 **A. Standard of Review**

23 A federal court must conduct a preliminary screening in any case in which a prisoner
24 seeks redress from a governmental entity or officer or employee of a governmental entity.
25 *See* 28 U.S.C. § 1915A(a). In its review, the court must identify any cognizable claims and
26 dismiss any claims that are frivolous, malicious, fail to state a claim upon which relief may
27 be granted or seek monetary relief from a defendant who is immune from such relief. *See id.*

1 § 1915A(b)(1),(2). *Pro se* pleadings must be liberally construed. *See Balistreri v. Pacifica*
2 *Police Dep't*, 901 F.2d 696, 699 (9th Cir. 1988).

3 A “complaint must contain sufficient factual matter, accepted as true, to ‘state a claim
4 to relief that is plausible on its face.’” *Ashcroft v. Iqbal*, 129 S.Ct. 1937, 1949 (2009)
5 (quoting *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 570 (2007)). “A claim has facial
6 plausibility when the plaintiff pleads factual content that allows the court to draw the
7 reasonable inference that the defendant is liable for the misconduct alleged.” *Id.* (quoting
8 *Twombly*, 550 U.S. at 556). Furthermore, a court “is not required to accept legal conclusions
9 cast in the form of factual allegations if those conclusions cannot reasonably be drawn from
10 the facts alleged.” *Clegg v. Cult Awareness Network*, 18 F.3d 752, 754–55 (9th Cir. 1994).
11 To state a claim under 42 U.S.C. § 1983, a plaintiff must allege two essential elements:
12 (1) that a right secured by the Constitution or laws of the United States was violated, and
13 (2) that the alleged violation was committed by a person acting under the color of state law.
14 *See West v. Atkins*, 487 U.S. 42, 48 (1988).

15 **B. Legal Claims**

16 Plaintiff alleges that defendants, his jailors, are denying him access to the courts by
17 failing to give him sufficient access to legal materials. Prisoners have a constitutional right
18 of access to the courts. *See Lewis v. Casey*, 518 U.S. 343, 350 (1996); *Bounds v. Smith*, 430
19 U.S. 817, 821 (1977). Prison officials must provide prisoners with “the capability of
20 bringing contemplated challenges to sentences or conditions of confinement before the
21 courts.” *Casey*, 518 U.S. at 356. To establish a claim for a violation of the right of access to
22 the courts, the prisoner must prove that there was an inadequacy in the prison’s legal access
23 program that caused him an actual injury. *See id.* 518 U.S. at 350–55. To prove an actual
24 injury, the prisoner must show that the inadequacy in the prison’s program hindered his
25 efforts to pursue a nonfrivolous claim concerning his conviction or conditions of
26 confinement. *See id.* at 354–55.

27

28

1 Plaintiff's allegations do not meet these requirements. Rather, his claims are
2 conclusory and undetailed. The Court cannot determine on this complaint what, if any, claim
3 the prisoner has regarding the legality, duration, or conditions of his confinement. Denial of
4 library privileges without a connection to the basis of valid claim is in and of itself
5 insufficient. Thus, the complaint does not contain sufficient factual matter to state a claim
6 for relief. Accordingly, the complaint is DISMISSED with leave to amend.

7 **Plaintiff shall file an amended complaint addressing the deficiencies detailed**
8 **above within 30 days from the date this order is filed.** The first amended complaint must
9 include the caption and civil case number used in this order (12-1340 YGR (PR)) and the
10 words FIRST AMENDED COMPLAINT on the first page. Because an amended complaint
11 completely replaces the previous complaints, plaintiff must include in his first amended
12 complaint *all* the claims he wishes to present and *all* of the defendants he wishes to sue,
13 including the excessive force claim found cognizable. *See Ferdik v. Bonzelet*, 963 F.2d
14 1258, 1262 (9th Cir. 1992). Any claims not raised in the amended complaint will be deemed
15 waived. Plaintiff may *not* incorporate material from the prior complaint by reference.
16 Failure to file an amended complaint in accordance with this order will result in dismissal of
17 this action without further notice to plaintiff.

18 It is plaintiff's responsibility to prosecute this case. Plaintiff must keep the Court
19 informed of any change of address by filing a separate paper with the clerk headed "Notice
20 of Change of Address." He must comply with the Court's orders in a timely fashion or ask
21 for an extension of time to do so. Failure to comply may result in the dismissal of this action
22 pursuant to Federal Rule of Civil Procedure 41(b).

23 **IT IS SO ORDERED.**

24 DATED: November 27, 2012



25 **YVONNE GONZALEZ ROGERS**
26 **UNITED STATES DISTRICT COURT JUDGE**

27

28

No. C 12-1340 YGR (PR)
ORDER DISMISSING COMPLAINT